

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY - - MAY 17, 2005 - - 7:30 P.M.

Mayor Johnson convened the regular meeting at 8:15 p.m.

ROLL CALL - Present: Councilmembers Daysog, deHaan, Gilmore,
Matarrese and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

(05-227) Mayor Johnson announced that the Resolution Declaring Support for Measure A [paragraph no. 05-228] would be addressed first; and next, the Resolution Recognizing the Selection of the City of Wuxi, China as Alameda's Friendship City [paragraph no. 05-229] would be addressed along with the welcome and presentation honoring Friendship City delegation [paragraph no. 05-229A].

REGULAR AGENDA ITEM

(05-228) Resolution No. 13939, "Declaring Support for Measure A, Alameda Unified School District Parcel Tax Measure." Adopted.

Michael McMahon, School Board President, stated voters approved a \$109 parcel tax in 2001, which gave the schools an additional \$1.8 million; the Board is requesting that the Council adopt a resolution supporting expansion of the tax for the next seven years.

Amy Costa, District Director for Senator Don Perata, stated Senator Perata could not be present due to budget negotiations; conveyed Senator Perata's support for Measure A; State funding has been volatile; Measure A would provide funding stability to the school district.

Richard Heaps, Alameda Parent Teacher Association (PTA) Council President and 2001 Measure A Oversight Committee Member, stated Measure A has the support of the PTA Council; the Oversight Committee has seen the results of reduced class sizes and other programs supported by the 2001 Measure A funding, and would like to see the funding continue and expand.

Ron Mooney, Alamedans for Better Schools Co-Chair, urged adoption of the resolution; thanked the Councilmembers for their individual support; stated school funding is set by the State; the Measure provides funding that the District uses to support critically important programs; noted an argument was not filed against the

Measure.

Councilmember Matarrese moved adoption of the resolution.

Councilmember Matarrese stated the schools have an impact on the whole City; the funding will keep programs in place and forestall any possibility of outside control, which would consist of the County or State telling Alameda how to run its school district.

Vice Mayor Gilmore stated kids are owed a good, quality education; the City cannot count on the State to provide funding.

Councilmember Daysog stated the resolution is of vital interest to the City.

Councilmember Daysog seconded the motion.

Under discussion, Councilmember deHaan stated the quality of education is one of the most important things in the City.

Mayor Johnson stated schools would face cuts if the Measure does not pass; Senator Perata is trying to equalize State funding of education; school facilities in other communities are higher quality; the Alameda Unified School District has done an excellent job with the amount of funding it receives; she was impressed with the teacher and students when she visited a second grade class at Miller School.

On the call for the question, the motion carried by unanimous voice vote - 5.

SPECIAL ORDER OF THE DAY AND REGULAR AGENDA ITEM

(05-229) Welcome and presentation honoring Friendship City delegation from Wuxi, China; and

(05-229A) Resolution No. 13940, "Recognizing the Selection of the City of Wuxi, China as Alameda's Friendship City and Authorizing the Mayor to Sign a Memorandum of Understanding Regarding the Formulation and Implementation of Sister City Relations." Adopted.

Jim Franz and Stuart Chan of the Social Service Human Relations Board introduced interpreter Tu Zhongliang, Deputy Director, Wuxi Municipal Foreign Affairs Office, who introduced the Wuxi delegation: Wang Zhuping, Vice Chairman, Chinese People's Political Consultative Conference (CPPCC); Zhou Yonggeng, Secretary General CPPCC; Bian He, Deputy Secretary General CPPCC; and Jiang Guoliang, Director of Study, Culture and History CPPCC.

Mayor Johnson introduced the Friends of Wuxi Committee: Nancy Li, Chair; Hans Wong, Vice-Chair; and Otto Huang, Honorary Chair.

Mayor Johnson read the resolution, which the translator also read in Chinese.

Councilmember Matarrese moved adoption of the resolution.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

Mayor Johnson and Wang Zhuping signed the Memorandum of Understanding (MOU).

Mr. Zhuping stated he is happy to sign the MOU to establish sister City relations with Alameda and hopes relationships will develop further.

Mayor Johnson stated the entire community is proud to be moving forward with the Sister City relationship, particularly residents of Chinese heritage and ancestry.

The delegation presented gifts to the City.

Mayor Johnson presented a pewter plate with the City seal.

CONSENT CALENDAR

Mayor Johnson announced that the recommendation to authorize installation of an All-Way Stop Control [paragraph no. 05-235] was removed from the Consent Calendar for discussion.

Councilmember Matarrese moved approval of the remainder of the Consent Calendar.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote - 5.

[Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*05-230) Minutes of the Special and Regular City Council Meetings held on May 3, 2005; and the Special City Council Meeting held on May 4, 2005. Approved.

(*05-231) Ratified bills in the amount of \$3,161,657.93.

(*05-232) Recommendation to accept Quarterly Sales Tax Report for the Period Ending March 31, 2005 for sales transactions in the Fourth Calendar Quarter of 2005. Accepted.

(*05-233) Recommendation to adopt Specifications and authorize Call for Bids for one animal control vehicle. Accepted.

(*05-234) Recommendation to adopt Plans and Specifications and authorize Call for Bids for Cyclic Sewer Repair Project, Phase 4, No. P.W. 05-03-11. Accepted.

(05-235) Recommendation to authorize installation of an All-Way Stop Control at the intersection of Santa Clara Avenue and Sherman Street.

Don Patterson, Alameda, stated that he opposes the four-way stop sign; the Transportation Technical Team (TTT) did not address the real problem of why Sherman Street is operating as a major thoroughfare; the General Plan Traffic Element's goal and intent is to have a transportation plan with traffic controls and techniques that direct and keep traffic on major streets; questioned how the City can make decisions without the advice of a professional traffic engineer on staff; stated said position has been vacant since October 2003; urged Council to direct the Acting City Manager to hire a traffic engineer; suggested the application be withdrawn; noted the individual who filed the application has not participated in any of the public hearings and must not be very serious about the request; stated the stop sign should only be addressed in the context of a total transportation plan, not a band-aid approach that would only exacerbate the problem by moving traffic faster along Sherman Street.

Stanton Scott, Alameda, stated that he has witnessed many accidents at the intersection; increased traffic has become more aggressive; that he supports some form of traffic controls; stop signs would be good.

Mary Amen, Alameda, stated that she represents a group of Santa Clara Avenue residents who are opposed to the stop sign; she gathered signatures in the four blocks directly affected; the residents would like the City to implement traffic calming devices before deciding to have 7000 cars a day stop in front of homes, including 12 buses per hour; accident statistics dropped to one per year after the City addressed visibility issues; buses and cars travel at 40 miles per hour (mph) during peak times; cross traffic could pass safely if cars traveled at the 25 mph speed limit; the U.S. Department of Transportation and CalTrans guidelines indicate stop signs should not be used for speed control; the Police

Department is called to ticket cars parked in red zones at all corners of the intersection on a daily basis; submitted photographs of cars parked in the red zone.

Kathy Gardner, Alameda, stated the intersection does not have cross walks; drivers on Santa Clara Avenue do not stop for pedestrians; there should be a stoplight, not a stop sign, at the intersection; drivers on Sherman Street cannot see traffic on Santa Clara Avenue; something needs to be done; there have been multiple accidents; an all-way stop sign is not the best solution; crosswalks and pressure sensitive stoplights should be installed.

The Public Works Director stated the intersection meets the traffic volume warrant and accident warrant; the TTT recognized that the stop sign would impact residents; Council is being requested to approve the all-way stop because it is the best short-term way to address the traffic operation issues; the TTT recognized an all-way stop is not the best long-term solution; Public Works staff is to provide long-term traffic operation safety at the intersection, including a review of installing a traffic signal or flashing yellow signal; Public Works will review how to improve traffic circulation in the area, how to de-emphasize Sherman Street, and coordination of traffic corridors.

Mayor Johnson stated that she has asked for an overall, comprehensive review of the issue over the years, instead of putting in four-way stops when the City receives requests; inquired what impact a four-way stop would have on Sherman Street; would the stop encourage more traffic on Sherman Street; should the City discourage additional traffic on Sherman Street; stated the City has been trying to equalize traffic on Santa Clara, Lincoln and Buena Vista Avenues; inquired whether the proposed stop sign would put an unfair burden on Lincoln and Buena Vista Avenues; stated every street in Alameda is a neighborhood; pushing traffic from one street to another is not fair; a comprehensive review is needed to address traffic issues; that she wants a better sense of impacts [before proceeding with a stop sign]; that she agrees with Santa Clara Avenue residents because she would not want cars and buses stopping and starting in front of her house.

The Public Works Director stated the Public Works Department is in the process of completing a Transportation Master Plan (TMP), which would strategically review how the City should assign traffic street by street.

Mayor Johnson stated both residents speaking in support of some form of traffic control are willing to consider other methods; one stated a four-way stop sign is not the best way; if staff is

working on a comprehensive strategic plan and there has only been one accident each of the last four years, Council should postpone review until information from the strategic plan is available.

The Public Works Director stated there is a concern that since all way stop warrants are met, the City might open itself up to liability.

Mayor Johnson stated there would be many more four-way stop signs if the City studied every intersection to determine whether warrants are met.

In response to Mayor Johnson's inquiry about whether the City Attorney wished to address liability, the City Attorney stated not in public; holding the matter over would not be a problem.

Councilmember deHaan stated that he travels on Sherman Street; a number of accidents are probably not reported; that he has witnessed accidents; lateral corridors are impacted when vehicles travel to the South Shore area; vehicles travel 40 mph down Santa Clara Avenue; crossing the intersection is a challenge; hopefully, traffic can be diverted [off of Sherman Street] at some point.

Councilmember Daysog inquired whether staff has data on whether peak traffic on Sherman Street has changed; stated there are probably younger families in the Gold Coast now; Sherman Street traffic volumes might be increasing because it is probably easier for workers to commute down Sherman Street rather than traveling down Constitution Way and Eighth Street.

Mayor Johnson stated analysis of Councilmember Daysog's idea would be interesting to review and is why the City needs to pay attention to the impacts of stop signs; Constitution Way should handle more traffic; the City should be encouraging drivers to use Constitution Way; the City should review whether drivers are discouraged from using Constitution Way because of the traffic controls.

Councilmember Daysog stated Constitution Way narrows down to one lane at Eighth Street; there is a bottleneck on Eighth Street at Santa Clara and Central Avenues at commute hours, which makes it more convenient to use alternate routes, such as Sherman Street.

Mayor Johnson stated the convenience created could be a result of the City's traffic controls and roadway configuration and is the reason the City needs to be strategic and design how people get around and off Alameda.

Councilmember deHaan stated Sherman Street becomes a bypass to get

onto Grand Street to travel to South Shore; drivers try to find the easiest path; for example, changes on Buena Vista Avenue are causing Pacific Avenue to become a major road; everything has secondary impacts; that he understands the concerns about a four-way stop; however, a measure of control is needed [at Santa Clara Avenue and Sherman Street].

The Public Works Director stated Councilmember Daysog's idea has not been reviewed; data could be analyzed; staff reviewed the traffic characteristic on Sherman Street; the average daily volume along Sherman Street is 5,500 vehicles at Buena Vista Avenue, 3,100 at Pacific Avenue and 2,500 at Santa Clara Avenue; the grid system is designed to filter people and is working; both Sherman Street and Santa Clara Avenue are minor streets; traffic volumes on Santa Clara Avenue are higher than Sherman Street; since volumes on Santa Clara Avenue are acceptable, then volumes on Sherman Street must also be acceptable.

Mayor Johnson inquired whether Santa Clara Avenue is wider than Sherman Street, to which the Public Works Director responded in the affirmative; stated Santa Clara Avenue is designated as a minor street in the General Plan.

Mayor Johnson stated Sherman Street should not be treated the same as Santa Clara Avenue as far as traffic loads.

The Public Works Director stated that he agrees there needs to be a strategic plan; the all-way stop is the best option for now with the funding available; noted Council approved funding to complete a Pedestrian Plan tonight, which is an element of the TMP.

Councilmember Matarrese stated the City should do anything possible to decrease the volume of traffic on Sherman Street; the character of Sherman Street is different than Santa Clara Avenue; the biggest problem is the excessive speed on Santa Clara Avenue; suggested the Police Department put together a program which tickets people traveling above the speed limit on Santa Clara Avenue to slow down traffic; stated most of the accidents are probably caused by excessive speed, rather than lack of a stop sign on Santa Clara Avenue; the City should review what can be done in the short term to encourage people to take other north/south streets, such as Constitution Way and Grand Street; noted the intersection is a block away from Mastick Senior Center; suggested that Council postpone the decision until there are answers about what can be done to reduce the load on Sherman Street in the short term.

Mayor Johnson stated that Council should wait; Council should direct staff to review other ways to remedy the problem at the

intersection and review whether traffic would be pushed to Lincoln and Buena Vista Avenues before a four-way stop sign is installed; the traffic lights on Constitution Way should be timed to prevent bottlenecking and encourage drivers to use it.

Councilmember Matarrese stated speakers mentioned that the City does not have a certified traffic engineer; requested staff to comment on the matter.

Councilmember Daysog noted there have been two pedestrian deaths on Constitution Way, which should be kept in mind; stated there should be a greater review of the data; requested a comparison with previous levels to determine whether Gold Coast residents are commuting down Sherman Street.

Vice Mayor Gilmore stated the problem is traffic traveling to the Gold Coast or South Shore filters down Sherman Street, as well as Bay and Saint Charles Streets, to avoid the bottleneck on Eighth Street.

Councilmember deHaan noted people are using other routes because Grand Street is becoming a bottleneck in the morning; a remedy is needed while waiting for the traffic study; police activity is temporary; pedestrian crosswalk paddles and blinking lights work well and should be considered; the intersection was a high priority for a traffic signal fifteen years ago; a solution is needed.

Councilmember Daysog concurred with Councilmember deHaan's suggestion to install pedestrian paddles; requested the liability issue be addressed related to postponement.

The Public Works Director stated paddles could not be installed until there are crosswalks at the intersection; Public Works would need at least four weeks to compile data requested by Council.

Councilmember Daysog moved approval of postponing the matter.

Mayor Johnson inquired whether the motion included direction for staff to review alternative remedies and other issues raised by the Council.

Councilmember Daysog amended the motion to include direction to staff to review alternative remedies and other issues raised by Council.

Councilmember Matarrese seconded the motion.

Under discussion, Councilmember Matarrese requested that police

officers begin enforcement in the area immediately to slow down traffic while analysis is being completed.

Councilmember deHaan inquired whether the speed board [radar trailer] retains data, to which the Public Works Director responded in the negative.

Mayor Johnson inquired whether the equipment has the capacity to retain information, to which the Public Works Director responded in the negative.

Mayor Johnson stated Oakland's equipment has messages, such as: "please drive slowly this our neighborhood" or "children at play;" suggested use of the radar trailer and, if effective, the purchase of additional radar trailers.

Councilmember deHaan stated other cities have permanent speed display devices.

The Public Works Director stated staff applied for grants and may have received funding for a smaller device showing traveling speed on Lincoln Avenue; suggested staff be authorized to proceed with putting up pedestrian and speed limit signs, along with the enforcement and radar trailer.

Mayor Johnson stated that Council would not object to staff taking said actions; drivers forget everywhere in Alameda is someone's neighborhood.

On the call for the question, the motion carried by unanimous voice vote - 5.

(*05-236) Resolution No. 13941, "Authorizing the use of Measure B Countywide Discretionary Fund Grant from Alameda County Transportation Improvement Authority (ACTIA) and Matching Funds from the City's Local Measure B Allocation to Complete a Citywide Pedestrian Plan." Adopted.

(*05-237) Resolution No. 13942, "Extending Period for Providing Low and Moderate Income Housing Pursuant to Health and Safety Code Section 33334.16 for 30 Units Within the Bachelor Officers' Quarters at Alameda Point." Adopted.

(*05-238) Resolution No. 13943, "Resolution of Intention to Levy an Annual Assessment on the Alameda Business Improvement Area of the City of Alameda for FY 2005-06 and Set a Public Hearing for June 7, 2005." Adopted.

(*05-239) Introduction of Ordinance Amending the Alameda Municipal Code to Increase the Composition of the Recreation and Park Commission from Five to Seven Members by Amending Subsections 2-7.2 (Membership; Appointment; Removal), 2-7.3 (Qualification: Voting of Section 2-7 (City Recreation and Park Commission). Introduced.

REGULAR AGENDA ITEMS

(05-240) Public Hearing to establish Proposition 4 Limit (Appropriation Limit) for Fiscal Year 2005-06; and

(05-241) Resolution No. 13944, "Establishing Appropriations Limit for Fiscal Year 2005-06." Adopted.

Councilmember Daysog moved adoption of the resolution.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-242) Public Hearing to consider collection of Delinquent Business License Fees via the Property Tax Bills.

Mayor Johnson opened the Public Hearing.

Huong Anh Silver, SOS Urethane Foam Roofing, stated the company has been closed since 1996 and does not have a contractor license.

Mayor Johnson inquired whether Ms. Silver contacted the Finance Department, to which Ms. Silver responded in the affirmative; stated the Finance Department stated paperwork was not adequate and SOS Urethane Foam Roofing has been listed in the telephone book.

Sherman Silver, SOS Urethane Foam Roofing, stated that he shut down the roofing company; that he is keeping his license with the State contractors board until he dies; he removed the sign in his front yard tonight; outlined his medical condition; stated he is not roofing anymore.

Mayor Johnson inquired whether Council could vote on the rest and hold over SOS Roofing to allow staff to take a closer look, to which staff responded in the affirmative.

In response to Mr. Silver's question about review of his materials, Mayor Johnson stated the Finance Director would review everything.

There being no further speakers, Mayor Johnson closed the public portion of the Hearing.

Councilmember Matarrese moved approval of the staff recommendation.

Vice Mayor Gilmore seconded the motion.

Mayor Johnson inquired whether the motion was to exclude SOS Urethane Foam Roofing, to which Councilmember Matarrese responded in the affirmative.

On the call for the question, the motion carried by unanimous voice vote - 5.

Mayor Johnson inquired whether the matter would come back to Council if additional action was necessary, to which staff responded in the affirmative.

(05-243) Public Hearing to consider an Appeal of the Historical Advisory Board's approval of a Landscaping Plan for planting two Coast Live Oak trees on the vacant property at 301 Spruce Street. The submittal of a Landscaping Plan, as part of new development proposals, was required by the Historical Advisory Board as a condition for the removal of one Coast Live Oak tree in 2001; **and adoption of related resolution.** The site is located at 301 Spruce Street within the R-4 Neighborhood Residential Zoning District. Applicant: Bill Wong for Hai Ky Lam. Appellant: Patrick Lynch and Jeanne Nader.

Mayor Johnson opened the Public Hearing.

Proponents (In Favor of Appeal): Patrick Lynch, Appellant; Jeanne Nader, Appellant.

Opponents (Opposed to Appeal): Ivan Chiu, representing Applicant.

There being no further speakers Mayor Johnson closed the public portion of the hearing.

Following the Appellant's comments, Mayor Johnson inquired why there has been uncertainty about whether there was a Code violation.

The Supervising Planner responded the Police were called when removal of the oak tree began; the officer was not aware Coast Live Oaks are protected; Planning staff was very clear that there was a violation when contacted about the tree.

Mayor Johnson requested the Appellants to provide staff with a copy of a letter from former City Manager Jim Flint.

The Supervising Planner noted the Council is considering the Historical Advisory Board (HAB) approval that the two replacement oaks are in the proper place; a requirement of allowing the tree to be removed was that the HAB would review the landscaping plan.

Councilmember deHaan inquired whether the existing two oaks would remain in place, to which the Supervising Planner responded in the affirmative; noted one is partially on City property.

Councilmember deHaan inquired whether staff reviewed damage to the remaining trees.

The Supervising Planner stated the HAB required that the oak trees be protected during development and required a registered arborist advise the Applicant.

Vice Mayor Gilmore stated the two existing oak trees are being maintained in their present condition and two more oak trees are being planted in positions determined by a landscape architect; inquired whether the complaint is that the two new oak trees are not in the correct position.

The Supervising Planner responded the complaints are that the HAB determined that the project was categorically exempt from California Environment Quality Act (CEQA) and the two trees on the site are not properly protected.

Vice Mayor Gilmore inquired whether the landscape plan has been modified since approved by the HAB.

The Supervising Planner responded the site plan has been modified, not the landscape plan; the building was moved five feet from the existing tree.

In response to Vice Mayor Gilmore's inquiry about whether building a single family home is categorically exempt from CEQA, the Supervising Planner stated CEQA permits construction of single family homes to be categorically exempt.

Vice Mayor Gilmore inquired why building of the house, which is exempt from CEQA, could not proceed even if a CEQA review were required for adding new trees.

The Supervising Planner responded Mr. Lynch is referring to segmentation; CEQA and the courts do not look kindly upon segmenting a project into pieces, which would be exempt individually, but which taken together would not be exempt.

Vice Mayor Gilmore inquired whether segmenting is clearly not the case for the project, to which the Supervising Planner responded staff does not believe segmenting has occurred.

Councilmember Daysog inquired why CEQA would be required for the trees.

The Supervising Planner stated the project is a single family home; there is a landscape plan which is part of the project; the HAB had purview over the two new oak trees in the landscape plan as a condition of a previous approval [to allow removal of an oak tree]; the HAB was concerned with ensuring the two new replacement trees, which are required when an oak tree is allowed to be removed, would be located in a spot where the trees would thrive.

In response to Vice Mayor Gilmore's inquiry regarding the basis for the appeal, Mayor Johnson stated the concern is the construction process and the impact on and protection of the two existing trees.

Mayor Johnson inquired whether an arborist was hired, to which the Supervising Planner responded in the affirmative.

Mayor Johnson inquired whether staff believes there are adequate measures in place to protect the two existing trees, to which the Supervising Planner responded in the affirmative.

Councilmember Daysog inquired whether the Appellants believe the measures are adequate.

Ms. Nader responded the problem is she understood there would be no construction activity after the Appeal was filed; the Applicant used a front end loader on top of the root system of the trees on April 25, which the arborist instructed him not to do without protection; the Applicant exposed and cut into several tree roots; the certified arborist, which she hired to look at the trees, determined the damage could be mortally wounding; that she was informed by City staff that the City does not have money for a certified arborist to ensure the trees are protected; the damage occurred after the appeal; the owner has blatantly disregarded the recommendation from his own arborist; the Applicant drove over the root system to move fill across the property; Code Compliance indicated tread marks were not apparent; her arborist indicated any contamination in the fill would kill the trees.

Mayor Johnson inquired what the City could do about the issue.

The Supervising Planner responded staff attempts to do everything possible to ensure that property owners comply with regulations.

Mayor Johnson inquired whether the City could require the arborist to submit a periodic report regarding compliance with recommendations, to which the Supervising Planner responded the suggestion might be a good solution.

Councilmember Daysog inquired whether Ms. Nader's comments are factually correct, to which the Supervising Planner responded that she did not know.

Councilmember Daysog inquired whether the Appellants provided information to staff, to which the Supervising Planner responded staff probably visited the site since Ms. Nader mentioned Code Enforcement.

Councilmember deHaan inquired whether Code Enforcement staff provided feedback about the site visit, to which the Chief Building Official responded that he would review the matter and report back to Council.

Councilmember deHaan stated that he visited the site; that he is concerned about the disruption around the tree; the owner should be requested to agree to stipulations overseeing the construction activity.

Bill Wong, Architect for Applicant, stated the arborist recommended a fence around the tree during construction.

Mayor Johnson stated the Council wants to allow the Applicant to proceed, but the Applicant needs to protect the trees.

Mr. Wong stated the fence would be put in place once the project is approved.

Mayor Johnson requested the arborist to explain what needs to be done to protect the trees during construction; inquired whether he was retained to provide oversight during construction.

Christopher Bowen, Project Arborist, stated that he discussed the matter with Planning staff and determined the drip line should be fenced off.

Mayor Johnson inquired whether other measures were being recommended.

Mr. Bowen responded the fence was to be installed prior to construction; that he recommends bails of hay be placed around the tree, the trunk be wrapped in carpet, and 2" x 4" lumber be

strapped to branches when construction commences; protecting the root system is the most important action; that he recommends placing a thin layer of compost, wood chips, and plywood to protect the root system.

Vice Mayor Gilmore inquired when Mr. Bowen last visited the sight, to which Mr. Bowen responded about a month ago, on April 7.

Vice Mayor Gilmore inquired whether Mr. Bowen has visited the site to witness the activity.

Councilmember deHaan inquired whether Mr. Bowen has seen the exposed root system, to which Mr. Bowen responded in the negative.

Councilmember deHaan noted the fenced off area is only five feet.

Mayor Johnson stated Mr. Bowen should conduct further analysis and determine whether restoration is needed before other measures are implemented.

Vice Mayor Gilmore stated Mr. Bowen visited the site a month ago and created a plan for protection of the tree; apparently the plan was ignored; that she is not convinced a plan will be followed; that she understands the neighbors' concern; inquired whether the City could require the owners to post a bond for the security of the trees.

The City Attorney responded in the affirmative; noted the resolution states: "prior to issuance of building permits for the development on the site, the Applicants shall sign and record with the County Recorder's Office a Landscape Maintenance Agreement with the City to ensure maintenance of the Coast Live Oak Trees on the property. The Landscape Maintenance Agreement shall be in effect for five years from the date of the recording;" Council is discussing having specific terms and conditions as part of the recorded Agreement that runs with the land and any violations can be enforced through Code Enforcement; the terms and conditions could include posting of a bond to ensure protection.

Councilmember Daysog noted that the City Council has certain powers under the City Charter with regard to compelling testimony; inquired when the arborist heard about the disturbance at the site.

Mr. Bowen responded tonight; the last time he spoke to the owner was to give advice on how to set up a fence around the drip line of the tree; the he understood the site would be untouched until the building process began; he was unaware any site work was being done; his recommendations were to take place before construction

began; he was informed that the fence was installed; that he was not hired to install the fence.

Mayor Johnson suggested the matter be continued since there has been some disruption on the site; the arborist could inform the City about ways to protect the tree, which could be used as conditions in the approval and the matter could return to Council; the owner needs to understand the conditions are serious and cannot be disregarded, and there should not be any other activity on the site.

Councilmember Matarrese moved approval of continuing the hearing.

Councilmember Matarrese stated the arborist's assessment should include whether the damage jeopardizes the tree; the City needs to take a close look and have a binding report.

Councilmember Daysog stated that he is interested in determining what occurred at the site: were conditions disregarded, was there an accident or did nothing happen.

Councilmember deHaan stated the soil brought onto the site does not look clean; the City should review the source of the soil and determine if there is a problem.

Councilmember Matarrese stated the owner should be liable for making the determination; the City should request that the owner conduct a soil test.

The City Attorney stated a design review appeal could be forthcoming in four weeks and the two issues could be combined.

Mayor Johnson stated the City should not assume there would be an appeal of the design review.

Councilmember Matarrese stated the tree issue should be resolved.

Mayor Johnson requested the matter return at the next Council meeting.

Vice Mayor Gilmore stated the conditions of approval should have teeth, which could be anything from having a bond posted or recording documentation; encouraged the City Attorney to be creative.

Councilmember deHaan inquired whether Councilmember Matarrese would amend the motion to include requiring a review of the soil condition.

Councilmember Matarrese agreed to amend the motion accordingly.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote - 5.

(05-244) Recommendation to develop two separate voluntary seismic retrofit programs.

Ken Gutleben, Alameda, thanked City staff for making long overdue recommendations; stated the program will lay down the foundation for developing a safer community; Victorians are extremely vulnerable to seismic activity; obtaining permits to retrofit Victorians is difficult due to strict design review laws.

Councilmember deHaan stated Victorian homes often have brick foundations, are not bolted and do not have any kind of earthquake bracing.

Councilmember deHaan moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-245) Recommendation to accept Report on results of Actuarial Valuations of the Police and Fire Retirement 1079 and 1082 Plans and the Retiree Health Care Plan.

The Finance Director gave a brief review of the reports.

Councilmember Daysog inquired whether the new Governmental Accounting Standards Board (GASB) rules are different and how the City proceeded in the past.

The Finance Director stated the current rule requires a valuation of the 1079 and 1082 plans once each three years; a roll forward letter is completed and there is a footnote in the City's Comprehensive Annual Financial Report (CAFR) in between years; there is not a lot to report since the City funds on a pay as you go basis; there will be a new rule pertaining to other post employment benefits in 2007; the actuarial was completed to look ahead and determine the value of the Retiree Health Care Plan benefits in the future; the new GASB rules require a lot of the data to be reported; the reporting for the Retiree Health Care Plan will become almost as extensive as the reporting for the 1079 and 1082 plans; additionally, the City will have to decide whether to fund pay as you go or find a way to fund the entire plan, which needs further review.

Councilmember Daysog inquired whether the reports attempt to make the information more transparent and look at future liabilities, to which the Finance Director responded in the affirmative.

Councilmember deHaan inquired whether the City would develop a plan, to which the Finance Director responded in the affirmative.

Mayor Johnson inquired whether the 10-year plan being formulated would include the liabilities.

The Finance Director responded in the affirmative; stated how the City funds the liability needs to be determined.

Councilmember Matarrese inquired whether the two plans are limited and new employees are not being added.

The Finance Director responded the 1079 and 1082 plans are closed; the other post employment benefits are for employees who have or will retire under the current agreements in place.

Councilmember Daysog stated the City is making plans and examining liabilities; other cities, such as San Diego, raided funds that should have gone toward liabilities and are almost bankrupt; inquired whether the reports are related to said case.

The Finance Director responded the rule was in place and had not been implemented; the San Diego crisis just occurred at the same time.

Mayor Johnson stated the actuarials, along with the 10-year plan, are very important; the City needs to consider current obligations in evaluating economic decisions in the future.

The Acting City Manager stated the point in evaluating the liability and establishing a plan is to ensure the City does not end up like San Diego in the future; the City should start mitigation and establish a plan.

Councilmember deHaan inquired whether the costs appear under the retirees' names on the monthly expenditures check register [bills for ratification], to which the Finance Director responded affirmative.

Councilmember deHaan inquired whether one plan is \$68,000 and the other is \$37,000 per month, the Finance Director responded that she could review and confirm the figures.

Vice Mayor Gilmore inquired whether the actuarial accrued liability is in excess of \$70 million for both the closed plans and the on-going retiree benefits.

The Finance Director responded in the negative; stated \$70 million is for the retiree benefit plan; the actuarial accrued liability for the 1079 and 1082 plans is \$31,683,000 as of January 1, 2005.

Councilmember Daysog inquired whether the outstanding liabilities are reported to bond underwriters.

The Finance Director responded bond underwriters receive the CAFR for three prior years; the liabilities are included in the footnotes.

Councilmember Daysog inquired whether the outstanding liabilities would affect the City's bond rating.

The Finance Director responded in the affirmative; stated the City is judged on whether or not a plan has been established; pay as you go is one plan.

In response to Mayor Johnson's inquiry whether a plan would be brought to Council, the Finance Director stated a report would be brought back shortly after the first draft of the 10-year plan.

Councilmember Daysog inquired whether Alameda's liabilities are typical for a city of its size.

The Finance Director stated the City's consultant who completed the study could respond.

John Bartel, Bartel Associates, stated the City of Alameda's 1079 and 1082 plans are a little unique; most agencies do not have frozen plans; the retiree health care plan is a \$70 million unfunded liability with two separate promises: safety and non-safety; the promise to the non-safety group is at the lower quartile of what other agencies promise; the promise to the safety group is in line with an upper quartile of what agencies promise.

Councilmember Daysog requested a background report on the matter to understand the quartiles and median being used.

(05-246) Presentation on the Operating Budget and Capital Improvements for Fiscal Year 2005-06.

The Acting City Manager provided a brief report on the budget and provided examples of surrounding cities budget problems.

Councilmember Matarrese stated that he appreciates the clarity of the staff report.

Mayor Johnson stated the proposal is a good approach to balancing the budget, which Council needs to continue working on; savings are the result of keeping positions vacant; a more permanent solution is needed to address on-going decreases and shortfalls in revenues; the proposed budget is a good place to start; despite numerous budget sessions last year, a balanced budget was not reached; thanked the Acting City Manager for his work; stated that she would like to see a combination of legal expenses in one place; legal expenses are under the City Attorney's office, Risk Management, and Alameda Power and Telecom; the legal budget should be more apparent; tracking is difficult when the entire legal budget is not in one place.

The Acting City Manager stated staff would provide the information.

Councilmember Daysog stated that he appreciates the summary highlighting the \$1.9 million gap and how the gap was filled; inquired whether the budget includes the \$1.8 million decrease in Alameda Reuse and Redevelopment (ARRA) funds.

The Acting City Manager responded in the affirmative; stated the \$1.8 million reduced ARRA revenue caused part of the problem.

Councilmember Daysog stated the Recreation and Park Director position is being left vacant, which is leading to a policy issue of how the Council wants to organize department heads; under the Charter, the Council is responsible for organizing departments; a background on the issue should be provided when the budget adoption is considered.

Mayor Johnson stated Councilmember Daysog is raising the type of long-term issues she was raising; Council will probably look at reducing the number of department heads.

Councilmember Matarrese stated the recommendation is simply for the next fiscal year; the position is not being eliminated; Council needs to make a decision about structure at some point.

The Acting City Manager stated staff is not requesting the position be eliminated, but is requesting that Council de-fund the position; staff is requesting the position remain in place, without funding; Council would have the policy decision about whether or not to fill the position if funding becomes available.

Mayor Johnson stated Council could begin working on the larger issue; the Acting City Manager should not be expected to deal with the budget problem and the major project of restructuring the City's government, which is a longer term issue that needs to be addressed separate from the budget.

The Acting City Manager stated the proposed budget gets the City through the next year; hopefully the State will live up to the requirements of Constitutional Amendment 1A and no longer take city revenues, which would put the City in a better position the following year.

Councilmember deHaan stated that he would not exclude reviewing reorganization for the next year budget; staff has the knowledge to determine service impacts; the budget is a major step in the right direction; all budgets should be reviewed, not just the General Fund.

The Acting City Manager stated the Council should be aware of other funds in the City; the budget document addresses other funds, but other funds were not highlighted in the staff report; the major deficit is in the General Fund, which funds most departments.

Councilmember deHaan stated deficits would occur in some of the funded programs and adjustments would be necessary.

Vice Mayor Gilmore thanked staff for the clarity of the report; stated the Council is concerned about not filling vacant positions and about reductions in force; Department Head presentations [at the next meeting] should address how reductions affect service delivery to citizens; the Council should adopt the budget with eyes wide open and the citizens should know what is coming down the pike; if it will take staff longer to respond to questions after budget adoption, people should know before it occurs; the community should be involved; hopefully, there will be more citizen participation at the next meeting; suggested the matter be placed earlier on the agenda.

Councilmember Daysog stated the City should know the profile of a full service city; if the police force is down to 104 officers, the Council should know whether similar size cities have more officers; the public should have the context of where the City is versus where the City should be even if there might not be funding to increase the number of officers; the budget should include said information; requested a distribution of budget reductions by department; suggested a comparison of budget reductions versus operating cost to come up with an index which would indicated whether anyone is being disproportionately impacted.

The Acting City Manager stated an across the board cut was not implemented; some departments have been hit more heavily than others; the cuts were based upon a judgment he conveyed to departments based on his understanding of the Council's service delivery priorities; cuts were made in departments with the ability to provide the level of service that the Council has indicated should continue.

Mayor Johnson stated the Council has expressed that across the board cuts are not the correct approach; the proposed budget is a good attempt to reflect the Council's priorities.

Councilmember Daysog stated that he was not opposed to implementing a one-day furlough instead of eliminating actual positions; the proposed budget does not trigger the need for one-day furloughs; the trigger would have been met if more positions were being cut.

The Acting City Manager noted four positions are being eliminated.

Councilmember Daysog stated if a number of police officers and fire fighters were being eliminated, considering options would have been necessary.

Mayor Johnson stated the proposed budget is a solution for next year, not a long-term solution; the Council will have to decide whether positions remaining vacant should be eliminated or funded at some point.

Councilmember deHaan stated staff and service levels for the last five or ten years should be reviewed to determine where the belt needs to be tightened or where positions should be added.

Mayor Johnson suggested staffing levels for the last seven years be reviewed.

The Acting City Manager responded said information would be provided.

Councilmember Matarrese stated the public should know the impact of eliminating four positions; Council needs to understand impacts to evaluate whether the Council's priorities are being met prior to voting.

The Acting City Manager inquired whether Council would like a short impact statement from each department head.

Councilmember Matarrese responded only for the four departments

with cuts.

Mayor Johnson concurred.

Vice Mayor Gilmore stated there is not a need to go through each department, especially departments not losing actual employees.

Councilmember Daysog stated that he is interested in creating a profile for Alameda's budget; the International City Management Association (ICMA) has certain ratios on the number of police officers and fire fighters; inquired whether ratios were available for the public works, planning and recreation departments; stated ratios might indicate additional funding is needed for a department; a standard other than ICMA could be used; that he would like to know where the City should be.

The Acting City Manager inquired whether Councilmember Daysog was requesting information on ideal staffing levels.

Councilmember Daysog responded in the affirmative; noted Alameda County uses said standards to produce its budget.

Mayor Johnson inquired whether Alameda County uses ICMA standards, to which Councilmember Daysog responded in the negative.

Councilmember Matarrese stated standards are useful for touching base, but historic review of staffing and service levels is very valuable because it is reality; the City has certain realities, such as being an island which has advantages and disadvantages that must be taken into account.

Councilmember Daysog concurred that historic data is good, too; stated ICMA standards probably correlate to what staff is requesting.

Vice Mayor Gilmore stated in addition to presenting information from departments losing a staff person, departments with a large number of vacant positions that interface with the public, such as public safety, should also be discussed at the next Council meeting so the public would be aware of changes in service.

The Acting City Manager noted there would be reductions in force in Development Services, which is funded through sources other than the General Fund.

Mayor Johnson inquired whether there would be a reduction in positions at Alameda Power and Telecom, to which the Acting City Manager responded in the affirmative.

Councilmember deHaan stated Council has been alluding to the inability to live off of billets being attrited down; cuts might not be appropriate; the City needs to be realistic; the easy way, such as 5% cuts, cannot be used; service needs to be reviewed.

Mayor Johnson stated that she inquired about purchasing goods and contracting locally; creation of central purchasing was a suggested way to do so; requested other ways to ensure as much money as possible is spent in Alameda and not generating tax revenues for other cities if the budget does not allow for the creation of central purchasing.

The Acting City Manager responded staff is addressing the matter; the budget was prepared prior to the request; the matter would return separate from the budget; perhaps a position could be converted.

Councilmember Daysog stated the proposed budget is fabulous, particularly the page reflecting salaries and benefits by department and the statement that: "if adopted, there would be no impact on the General Fund reserve."

John Oldham, Acting President of the Management and Confidential Employees Association (MCEA), thanked the Acting City Manager, Finance Director and Human Resources Department for outlining what is happening with the City budget; stated the MCEA membership is concerned about the proposed cuts and the impact on workload as jobs of association members are eliminated; employees are the foundation of what the City does, which is serve the citizens; the proposed budget requests that employees do more with less, which will erode the customer experience; that he started his career with the City in the Recreation and Park Department as a Park Director; the proposed budget eliminates the position that supervises park directors, which is a loss of a mentor who understands the operation; MCEA understands every position has a similar story and choices will be difficult; MCEA has had just over a week to review the budget and proposed reduction in force; MCEA would like to partner with the City to resolve the budget shortfall, while preserving services, program delivery and the quality of life for Alamedans; requested Council to continue to review unfilled positions to reduce costs and take a closer look at revenues and expenditures before eliminating the positions of employees who have dutifully served the City for years; further stated prior to acting on the budget on June 7, MCEA is asking to work together to look at the whole picture before making a reduction in force; MCEA is asking for time to review the budget together so that everyone understands the impact of the reduction in force.

(05-247) Presentation on the City's infrastructure investment challenges.

Mayor Johnson stated that she considers infrastructure the part of the City's budget deficit; the maintenance of infrastructure has declined in the last several years; although money was saved, it creates a bigger deficit that must be dealt with in the future; the Council needs to decide whether to continue to allow the infrastructure to continue declining or to deal with the deficit and prevent it from growing.

The Public Works Director gave a Power Point presentation on the City's infrastructure.

Mayor Johnson inquired whether the Public Works Director had information on the percent of streets and sidewalks not in good condition, to which the Public Works Director responded that he included said information for streets.

Mayor Johnson stated the information was needed for sidewalks; sidewalks are in bad condition; sidewalks should be made a priority in addition to streets.

Councilmember Daysog inquired whether the annual funding shortfall is \$2 million.

The Public Work Director responded in the affirmative; stated currently \$4 million is funded and \$6.6 million should be funded; the \$2.7 million shortfall does not take into consideration the \$33 million deficit; under-funding each year continues to add to the deficit.

Mayor Johnson stated the economic result of under-funding would be more than \$2.7 million; not completing maintenance causes greater damage.

The Public Works Director concurred; stated there is an optimum point when resurfacing should be completed to be cost effective; many streets are beyond the cost effective point, which results in more costly repair, such as a repair which would have cost \$1 three years prior would now cost \$4.

Mayor Johnson requested pie charts showing the condition of infrastructure other than streets, such as sidewalks and sewers.

Mayor Johnson inquired whether only spending \$750,000 on street resurfacing during the next fiscal year would add to the deficit,

to which the Public Works Director responded in the affirmative.

Mayor Johnson stated priorities should be determined.

The Public Works Director stated the department has had a reduction in staff; both the pothole and sidewalk crews had reductions and, as a result, were combined.

Mayor Johnson inquired whether annual contracts included pothole and sidewalk repair.

The Public Works Director responded an annual contractor is responsible for sidewalk repairs; Public Works employees are responsible for inspections, fillets, grinding and minor concrete replacement.

In response to Mayor Johnson's inquiry regarding the contractor's duties, the Public Works Director stated the contractor completes the backlog of permanent concrete repair in 300 to 400 locations.

Councilmember Daysog stated residents would understand budget shortfalls for capital projects, but would not understand the City failing to have a plan, timeline and priorities.

Councilmember Matarrese noted that he would prefer areas be paved over, rather than installing manufactured turf.

* * *

(05-248) Councilmember Daysog moved approval of continuing the meeting past 12:00 midnight.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

* * *

Councilmember Daysog stated there is probably \$8 million undesignated in General Fund reserve; the City should change course if the reserve was built up at the expense of sidewalks and streets; the Council should consider allocating above \$300,000; there needs to be a plan; the Council should receive a report on how to proceed.

Mayor Johnson stated the City is reaching the point where something has to be done; people are upset about the condition of sidewalks and streets.

Councilmember Matarrese stated a structural change should be made; spending money upfront will save money later.

Councilmember deHaan inquired whether residents are required to pay for sidewalk repair, to which the Public Works Director responded the City only repairs sidewalks damaged by street trees.

In response to Mayor Johnson's inquiry about sewers, the Public Works Director responded the City's sewers are doing fairly well because there is a dedicated funding source; dedicated funding sources or fees would allow the City to keep up with on-going maintenance.

Councilmember deHaan inquired whether Measure B funds were used for the pothole crew, to which the Public Works Director responded in the affirmative.

In response to Councilmember deHaan's inquiry regarding Measure B funds being a fixed amount, the Public Works Director stated the amount varies because it is based on sales tax.

Councilmember deHaan inquired whether the pothole crew defers the need for maintenance, to which the Public Works Director responded resurfacing is still often needed.

Councilmember Daysog stated little changes can change people's perception; people think negatively of their surroundings if streets and sidewalks are not maintained; people might have confidence the City is on the right track if improvements cannot be fully funded but common areas are improved.

Mayor Johnson stated not dealing with the problem creates a bigger deficit; the Council needs to review the issue; a long-term plan is needed to get infrastructure back in shape.

Councilmember Matarrese stated the sewer system is in good shape because it has a dedicated funding source; a similar option for streets, sidewalks, and median strips should be presented to the public; other funding sources will not solve the problem.

The Acting City Manager stated the presentation was the first step to identify the problem; the next step is to find ways to fund improvements; having something similar to the sewer fund would be good.

Mayor Johnson stated the City must be able to assure the public that a thorough review was completed and there is not any money available in the budget before raising fees; the deficit is huge.

Councilmember deHaan stated the most important thing is to set up a

steady funding stream; providing a large amount of money one time would not work; a plan should be established.

Councilmember Daysog stated use of the General Fund reserve should be considered.

Mayor Johnson and Councilmember deHaan concurred with Councilmember Daysog.

Mayor Johnson stated the City is actually losing money and should be spending the money [on infrastructure] if money is sitting in the General Fund reserve while a huge debt is being incurred; there needs to be a plan to ensure the City does not end up in the same situation in 10 years.

Councilmember Daysog stated the General Fund reserve is at the current level because money was borrowed from infrastructure maintenance.

ORAL COMMUNICATIONS, NON-AGENDA

(05-249) Robb Ratto, PSBA, stated City staff is handling the budget situation excellently; PSBA would be happy to identify resources to help the City purchase in Alameda; that he would enlist other business associations to partner with the City to ensure the City purchases as much as possible in Alameda; thanked Council for showing the courage and persistence to proceed with the Theatre project.

COUNCIL COMMUNICATIONS

(05-250) Councilmember deHaan stated Council approved going forward with the purchase of a vehicle tonight [paragraph no. 05-233]; there is not a Ford dealership in Alameda, encouraged staff to consider Chevrolet.

The Acting City Manager stated the Animal Control vehicle could be a Ford or equivalent.

(05-251) Councilmember deHaan stated at one point, CalTrans was going to upgrade the lighting in the tube; requested a report on the matter.

(05-252) Councilmember deHaan thanked staff for staying for the budget discussion.

ADJOURNMENT

There being no further business, Mayor Johnson adjourned the regular meeting at 12:19 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -MAY 17, 2005- -7:10 P.M.

Mayor Johnson convened the special meeting at 7:20 p.m.

Roll Call - Present: Councilmembers Daysog, deHaan, Gilmore,
Matarrese and Mayor Johnson - 5.

Absent: None.

The special meeting was adjourned to Closed Session to consider:

(05-225) Conference with Legal Counsel - Existing Litigation; Name
of case: St. Paul Property and Liability Insurance v. City of
Alameda.

Following the closed session, the special meeting was reconvened
and Mayor Johnson announced that the Council gave direction to the
City Attorney.

Adjournment

There being no further business, Mayor Johnson adjourned the
special meeting at 7:25 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown
Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL
COMMUNITY IMPROVEMENT COMMISSION, AND
ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY
TUESDAY- -MAY 17, 2005- -7:25 P.M.

Mayor/Chair Johnson convened the Special Joint meeting at 7:35 p.m. Councilmember/Commissioner/Board Member deHaan led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers / Commissioners / Board Members Daysog, deHaan, Gilmore, Matarrese and Mayor Johnson - 5.

Absent: None.

CONSENT CALENDAR

Councilmember/Commissioner Matarrese moved approval of the Consent Calendar.

Vice Mayor/Commissioner Gilmore seconded the motion, which carried by unanimous voice vote - 5.

(05-226CC/05-024CIC) Minutes of the Special Joint City Council and Community Improvement Commission Meeting of May 3, 2005. Approved.

(05-025CIC) Recommendation to approve an Amended Contract with Michael Stanton Architecture (MSA) by increasing the Contract amount an additional \$40,000 for design review services for the proposed Civic Center Parking Garage Project. Accepted.

(05-026CIC) Recommendation to receive and file revised Alameda West Strategic Retail Implementation recommendations. Received and filed.

AGENDA ITEMS

(05-027CIC) Recommendation to approve a First Amendment to an Acquisition Agreement by which the Community Improvement Commission acquired an Affordable Housing Covenant from the Alameda Reuse and Redevelopment Authority for thirty units of very low income housing at the Bachelor Officers' Quarters located within the Alameda Point Improvement Project.

Commissioner/Board Member deHaan moved approval of the staff recommendation.

Commissioner/Board Member Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-028CIC) Resolution No. 05-136, "Resolution of Necessity to Acquire Property by Eminent Domain for Redevelopment Purposes; Authorizing Commencement of Litigation to Acquire Property and for Order of Possession; Code of Civil Procedure Section 1245.235 et seq. (APN 071-0203-014 and APN 071-0203-015; 2315-2323 Central Avenue, Alameda, California - Alameda Theatre/Cineplex and Parking Structure." Adopted.

Lester Cabral, Tenant, stated that a lot of information has just been received; that he opposes the resolution until the tenants are notified about what is going on; that he understands an eviction notice might be forthcoming.

Chair Johnson requested staff to meet with Mr. Cabral to answer his questions.

In response to Commissioner deHaan's question about the property Mr. Cabral is concerned about, Mr. Cabral responded Hair Shapers at 2321 Central Avenue.

Lars Hansson, Park Street Business Association (PSBA) Board President, stated the PSBA Board supports the staff recommendation and urges adoption of the resolution; the resolution will springboard negotiations with the owner to allow reaching a fair market value within a short period of time.

Duane Watson, PSBA Board Vice President, urged moving forward with the project.

Robb Ratto, PSBA Executive Director, stated the project is important for PSBA and all of Alameda; the restoration of the historic theatre was identified as the number one priority in the downtown vision process; urged support of the staff recommendation; stated Video Maniacs has been successfully relocated with the assistance of Development Services.

Daniel A. Muller, Attorney for Cocores Development Company, submitted a letter; stated the letter submitted includes five categories of objections to the Resolution of Necessity and right to take the property; the offer of \$1.5 million recently submitted is less than half of the value that a qualified, MAI [Masters of the Appraisal Institute] appraiser provided 1½ years ago; said

appraiser, Mike Dunn, was jointly retained by the City and Cocores and came up with a value of \$3.7 million; the appraisal the City is using is over a year old; for a jointly hired appraiser to come up with \$3.7 million and the City to disregard the offer and use a year old appraisal that is less than half of the jointly appraised value is fundamentally flawed; secondly, the City has not followed the adopted owner participation rules required by law; the rules specify that the City will give preference to property owners within the project area, which has not occurred; the City allowed Cocores to jointly pay for an appraisal and took half of the \$25,000 price for a feasibility study in 1996 that has been shelved; the City has been willing to take Cocores's money in partnership, but has not continued to follow through with any owner participation rules; the third problem is that the City claims the justification for the public use of the project is remediation of blight; the area is not blighted; the blight findings are unfounded and not supported by the evidence; additionally, there is evidence that the outcome of the hearing is predetermined; news articles indicate the City has commissioned construction reports and studies and committed itself contractually towards the condemnation and project; the City is conducting a sham hearing and is committed to going forward with the project; requested adoption of the resolution be delayed for a couple of meetings to allow the City to re-engage Mr. Cocores on the fair market value issue; stated City staff offered \$2.5 million to Mr. Cocores at one point and even offered \$3 million if structured as \$2 million upfront and \$1 million over a period of years; similar negotiations could continue if the resolution is delayed; if not, the City will face a right to take challenge; good faith negotiations seem to have terminated but could be restarted; additional evidence of predetermination is the Disposition and Development Agreement (DDA) that has been entered into with a developer; although the DDA is carefully worded that the Commission is not committing itself to condemnation, the mere fact that a DDA has been executed with a developer suggests there is no longer a discussion with the owner; urged delaying action to resume good faith negotiations and avoid spending resources on unnecessary litigation; finally, there are fatal, fundamental problems with the mitigated negative declaration; deferral of some of the mitigation measures are impermissible under California Environmental Quality Act (CEQA); CalTrans raised problems, such as traffic impacts and impacts to certain intersections, that were not addressed; the City must comply with CEQA prior to adoption of the Resolution of Necessity; failure to comply with CEQA can create right to take challenges.

Chair Johnson inquired whether the Commission could adopt the

resolution and give direction to staff to continue negotiations, to which Legal Counsel responded in the affirmative.

The Development Services Director stated staff would continue to talk to the owner about acquiring the property; staff has attempted to talk to the owner and has not had success.

Chair Johnson stated it appears the owner is now willing to talk and the City should enter into discussions if the owner is willing.

The Development Services Director stated the City has been working on the project for many years; a Request for Proposals (RFP) for redevelopment of the project was sent to the owner in December 2000; the owner sent a letter in January 2001 which thanked the City for sending the RFP and stated: "the owner's desire is to wholeheartedly endorse the City's effort to locate a developer to redevelop the Alameda Theatre;" staff has been proceeding on said basis for sometime; the DDA does not pre-commit the condemnation action; staff has always intended and hoped to acquire the property amicably; noted the property owner did not object at the CEQA hearings or DDA adoption.

Commissioner Matarrese requested staff to comment on the claim of defects in the appraisal.

Legal Counsel responded the Commission's action is not predicated on the joint appraisal; staff has full faith and confidence in the appraisal upon which the action is being based.

Commissioner Matarrese stated the project is important; the City has an opportunity to save the Alameda Theatre; the City should continue negotiating with the owner.

Commissioner Matarrese moved adoption of the resolution.

Chair Johnson inquired whether Commissioner Matarrese would amend the motion to include approval of direction to continue negotiations.

Commissioner Matarrese agreed to amend the motion to include direction to continue to negotiate [with Mr. Cocores].

Chair Johnson stated negotiations should continue if the owner is willing; the owner has indicated a willingness to continue to negotiate; the City hopes to resolve the matter by agreement; hopefully, the owner is sincere about being willing to negotiate.

Commissioner Gilmore seconded the motion.

Under discussion, Commissioner Daysog stated moving forward is in the best interest of the City.

Commissioner deHaan requested staff to clarify whether Hair Shapers received notification.

The Development Services Director stated that on March 22, all the tenants were notified that the City made a bona fide offer to the owner; the City's relocation and acquisition agents provided information to all of the tenants at that time; staff would ensure the tenant has all the facts.

Commissioner deHaan stated that he supports the action to go forward to allow a common position to be reached.

On the call for the question, the motion carried by unanimous voice vote - 5.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the Special Joint meeting at 8:02 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.